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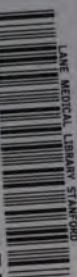
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SPEECH

OF

HON. STEPHEN J. COLAHAN,

ON THE

ADMISSION TO THE PRACTICE OF MEDICINE
AND THE DISPENSING OF DRUGS.

DELIVERED IN CONVENTION, NOV. 19 1867.

REPORTED BY E. F. UNDERHILL.

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Mr. COLAHAN—I wish to call up a resolution offered by me on the 22d of August last.

The SECRETARY proceeded to read the resolution, when Mr. COLAHAN offered the following substitute:

The SECRETARY proceeded to read the substitute as follows:

Resolved, That the following section be referred to the committee on revision and embodied in the proposed amendments to the Constitution of this State:

SEC. —. At the first assembling of the Legislature of this State after the adoption by the people of the amendments made by this Convention to the Constitution, the Governor, with the consent of the Senate, shall appoint two State medical boards. One of said boards shall be composed of three members of the medical profession, of the homœopathic school; the other shall be composed of five members of the medical profession of the allopathic or old school of medicine. No person shall hereafter be permitted to practice medicine in this State, unless after having passed a satisfactory examination in physic and surgery before either of the before-mentioned boards. This provision, however, is not to affect any practicing physician now duly authorized to practice by any legally constituted college of this State. The respective pharmaceutical societies of this State, duly incorporated, according to law, shall have full power to license apothecaries and druggists, and no person shall hereafter dispense or compound drugs without a license from a pharmaceutical society, as before referred to. The Legislature shall regulate the terms of office and compensation of the members of the said medical boards, and direct a uniform system of examination to be made by pharmaceutical societies of all applicants for permission to dispense and compound drugs in this State, and have all further power to effect the carrying out of the intendment of this section. The Legislature shall make it a criminal offense, with any additional penalty, for any person to violate the provisions of this section.

REMARKS.

Mr. COLAHAN—I would have called this resolution from the table at an earlier time were it not that I awaited the disposition of the reports of the Committees on Finance and Canals. This disposition not being made in the time I anticipated, I am compelled, in justice to the subject of the resolution, to call it up for action this morning. The subject-matter of the resolution itself is somewhat out of the channel of matter that has been heretofore acted upon by this body, and interests vitally every inhabitant of this State. It is not cramped with the shackles of political expediency, and with its just determination would not carry one harmful effect to the depository of hopeful prospects of either of the great political parties in this State. That the medical profession of this State is in a condition of decline; that medicine is distributed carelessly and ignorantly and to the destruction of our people, that there is a practical remedy, and that this body should effect the same, I will endeavor to show in the few remarks I am about making. Nearly two thousand years ago, Jesus the son of Sirack, pronounced "that the skill of the physician shall lift up his head; and in the sight of great men he shall be in admiration." In this country, more than any other to all appearances, if there is not State protection given, these words are destined to lose much of their truth. For the better and readier understanding of the subject, I will refer briefly to the more important laws made by our State on the practice and dispensing of medicine. Since 1760, when the first law was passed purposing to regulate the practice of medicine in the city of New York, and up to the present day, legislation in our State on this subject has been ambiguous, indefinite and insufficient. It was first enacted that none should practice medicine unless he passed an examination in physic and surgery, and was admitted by one of his majesty's council, the

judges of the supreme court, the attorney-general, and the mayor of the city of New York: or by any three of them, taking to their assistance for such examination, such person or persons, as they, in their discretion, shall think fit. There was a penalty of £5, with costs, against any person practicing without such testimonials. It will be remarked that under the provisions of this law, the applicant was admitted by a board that knew nothing of medicine, being composed of those from other stations in life, and the penalty against quacks, but £5. In 1792 a law was passed which required two years' study with some authorized physician. Under this act, the physician without the proper testimonials, or in other words, the quack, had no legal claim for compensation for his services. In 1797 the first act was passed affecting the State generally. This law required the filing of the certificate of admission: also, that the student served an apprenticeship of four years' study with one or more respectable physicians. The physician or physicians had to make oath to the fact. In 1808, the law was passed creating medical societies. This act with some later amendments is the basis of the present system of legislation on this subject. Under its provisions, county societies and the State medical association were created. All of these corporate bodies were invested with power to appoint censors to examine candidates and grant licenses. In 1813 all previous acts affecting the practice of medicine were consolidated. Five or more so called medical men could and can now club together, organize a county society and establish any regulations almost they please. In a few cases such action has been beneficial, but in others it has been just the contrary. This system is too diffuse and lacks the essential of permanent responsibility. In 1853, a law was passed which gave power to the trustees of every college incorporated, pursuant to the provisions of this law, to grant and confer the degree of doctor of medicine, upon the recommendation of the board of professors of such college, and of at least three curators of the medical profession appointed by such trustees. This is the law under which colleges grant medical diplomas at the present time. The qualifications called for are—being twenty-one years of age, of good moral character, having received an English education, having pursued the study of medicine and the sciences connected therewith for three years after the age of sixteen—and having received instruction from some physician and surgeon until he said student—was qualified to enter a medical college, and having attended two complete courses of

lectures delivered in some incorporated college. The only difference between the county society and the college is, the former has power only to grant a license to practice, the latter can confer the degree of M. D. Under this legislation, the power of conferring degrees and licensing is so general that too much competition exists and there is too little concentration of responsibility. There is too large a market for medical aspirants, and of the many roads that are thus made to lead by the Temple of Esculapius, the candidate for medical indoctrination will most certainly select that which is easiest trodden and leads him soonest to the object of his desires. Our medical colleges to-day are in competition, not to graduate students of ability and worth, but to manufacture doctors of medicine by the quantity. The clause of the law calling for a good English education has gone into disuse and become obsolete. Instruction from a physician before entering a medical college is not required, and the colleges have nearly all relaxed so much of their rigidity in the three years' study that respectable professional men pronounce the whole system a farce. The law does not prescribe any system of study, but leaves the whole matter of instruction in the hands of these various rivaling institutions. So that, as these institutions increase, the labor of study will be lessened, as an increased supply of goods tends to depreciate their value in the market. Many of these institutions have able and praiseworthy men at their heads, but they cannot establish necessary regulations and rules, because the State does not support their efforts. Were any of them to exact proper study and qualifications, their amphi theatres or students' benches would be vacant, for other institutions could give candidates as much authority in less time, and upon a great deal *cheaper* terms. On the subject of our college system, the *Medical Record* of June 15th of the present year, says :

"It is too well known that under the existing system of admitting students to our medical colleges, the only desire seems to be to have a large class and swell the treasurer's account. Every means is taken to attract young men to the study of medicine, without taking into account their fitness for the undertaking. The result of all this is, that the number of students is in the aggregate very large, and the amount of brains they represent very small. There have been no measures adopted heretofore to ascertain the fitness of any would-be student of medicine for his prospective tasks in a medical college, other than the ability to write his name legibly upon the

restriction work. By that act he becomes a member of the college, becomes responsible for the fees of his tuition, and that is all that is required of him."

Another great evil is that of permitting individuals to practice medicine in our State who claim to be graduates from institutions in other States but who in most cases are only ignorant quacks possessing neither qualifications nor reputation. There are colleges not many miles from portions of this State where any person, upon a few months' waiting and the payment of a small sum of money, can obtain a diploma to practice medicine and this diploma is the highest and best compliance with our laws for the possession of the medical profession and the public. That there should be some restriction placed upon such individuals practicing medicine in our State without examination or license will be made somewhat patent by the following peculiar, interesting and amusing letter. It was read at the last annual meeting of the British Medical Association, in the city of Dublin. Sir Dominic Corrigan, in his opening address, before reading this letter, took occasion to censure the facility with which diplomas could be purchased in the United States. The letter read:

+ EDINBURGH, GLASGOW, July 24, 1867.

DEAR SIR: After having had the pleasure of your note of the sixth instant I wrote to you in direct course. I started in terms of my last letter, that no university but that of the State of Pennsylvania, gave degrees of medical honor in *medicina*, the rest being *Sci. Lit.* in aid of all demands and delivered free. I will cheerfully assist you or your friend in obtaining the object in view. As I have four new degrees to get at Pennsylvania next week: please send me £30 12s. for the Pennsylvania degree and I will send all the requisites to you in course. I am, my dear sir,

Truly yours,

— M. D. —

In relation to quackery, or those who have no qualifications or authority to practice medicine, the following evasive and evil enactments exist on our statute books:

"All persons not licensed, who shall practice or attempt to practice as a physician or surgeon, or who shall prescribe for or administer medicine or specifics for the sick, shall be liable for damages in cases of malpractice, as if such persons were duly licensed to practice."

"No person shall be liable to any criminal prosecution, or to indictment for practicing physic or surgery without a license, excepting in cases of *malpractice*, or *gross ignorance*, or *immoral conduct* in such practice."

These laws are most remarkable, for they virtually give encouragement to all ignorant persons (possessing sufficient assumption) to engage in tampering with human life. The unauthorized and ignorant are made only to assume the liabilities of an educated, experienced and legally-empowered member of the medical profession. In passing, I am reminded of an anecdote I heard told of the University of Salamanca, which might be applied with truth and grace to some of our institutions. A farmer called upon the president of the university to purchase a diploma for his son, and after paying the price, remarked that the diploma was so cheap he wished to have another for his mule, who was then standing outside. The president replied that the institution had tired of conferring degrees on mules, and now only conferred them on *asses*. What has been the result of all this dereliction on the part of our State? Ask our decimated population; consult the childless, the widowed, and the orphan! Read the death rate, and mark the tombstones! Should this not suffice, attend our criminal courts, or sit upon a coroner's jury, and contemplate the victim of another Dr. Septimus Hunter; the body, while quiet in the sleep of death, still bearing evidences of recent torture and agony; those features contorted in their contest with pain; the blood-stained floor; the surrounding terror-stricken and unconsolable friends; the victor standing with the spoils of his ignorance in his paralyzed and cruel grip, stricken dumb with the realization of his bloody achievement and the consequences of his brutal and fiendish deed. Every day we read of fresh victims to the holocaust of medical quackery. The blossom of morning is blasted before the mantle of night is spread. The recital of another beautiful and promising girl wasted and withered to death in the hands of the abortioner has become as customary as the child's daily errand to school. The record of another flooding to death, or of death from unnecessary or unskillful amputation is almost as common. Such destroyers of humanity and encouragers of sexual criminality advertise perfectly secure in our public journals; and law makers pass on in the bustle of life unobserving, and with a silence that bespeaks almost approval. In the hope of secrecy, the child of misery is beguiled to the haunts of the charlatan, and

security is no consideration—profit to the apothecary is only of importance. In Europe the pharmaceutical business is carefully guarded. Rigid examinations must be passed and experience had, before an individual is permitted to become even an assistant in an apothecary shop. In some countries the person, after giving proofs of his learning and experience, must receive a special State license before he can dispense or compound drugs. The number of druggists is also regulated by population.

Mr. Milhau, President of the Pharmaceutical Society of the city of New York, writing to myself, says:

“In France, where the laws regulating the business are strictly enforced, the consequence has been that the pharmaciens everywhere, even in the smallest villages, possess a knowledge of chemistry, botany, etc. We in this country have been vastly benefited by their discoveries. For instance, quinine, which is of such vast importance, was discovered by two apothecaries in Paris, Messrs. Pelletier and Caventieu; and many other discoveries could be mentioned, all, perhaps, growing from the salutary laws regulating the profession.”

The thorough system of educating students in Europe for the practice of medicine need only be referred to by me. The requisite preliminary classical education that a student must be possessed of, his subsequent probation in a medical college, and the time of his practical experience before he is intrusted with the lives of patients, are facts known to every member of this Convention.

As for myself, I would have every member of the medical profession a classical scholar. I would have him so trained that the ennobling traits of humanity would be prominent in his making up, such as sympathy, charity, conscience and morality, and not a development of sordid desires, not the cultivation of avarice, misanthropy and brutality. The great mistake in our go-ahead policy is, that we are too engrossing, and too unthinking in considering the projects susceptible and beneficial to change. The profession of medicine requires more of the human heart in its composition than does any other calling in life. The physician of learning and feeling brings consolation to the suffering, and hope to the despondent; carries with him light and joy for afflicted relatives, and is the most indispensable and useful auxiliary to poor, weak humanity. As Allison says: “The extension and improvement of the mechanical arts—the multiplication of railroads, canals and harbors—extraor-

dinary rapidity of internal communication—increasing craving for newspapers, and excitement in all its forms—the general spread of comfort, and universal passion of luxury, afford no antidote whatever against the native corruption of the human heart.” No, we require elevating and ennobling knowledge, religious and moral instruction, a familiarity with life, its vanities and shadows, a peering into the past, and sufficient wisdom for hope in the future, before we can teach the heart sympathy, and direct the conscience in the path of rectitude. I have read, that in some of our Eastern States, owing to laxity of legislation in protecting life, that the births do not exceed the deaths, and that their increase in population is owing altogether to immigration. Now, Mr. President, I wish, and the people ask that this Convention should seriously consider this subject. I have a project which is not radical in its features, but which I think if adopted will contribute greatly toward ameliorating the condition of the people and of the medical profession. I propose to create two State boards of examiners—one to consist of three of the most reputable practitioners or professors in homeopathy, the other to be composed of five of the most reputable practitioners or professors in allopathy. The members of these boards to be nominated by the Governor, and confirmed by the Senate. All persons hereafter to be prohibited from practicing medicine in this State unless they shall have passed a satisfactory examination before either of the before-mentioned boards. Excepting, however, from the provisions of this section, all persons now regularly licensed and authorized by any legally incorporated college of this State. I also ask that the Legislature be directed to make it a misdemeanor for any person to practice or attempt to practice medicine in this State without complying with the provisions of this section. I also propose to confer sole authority upon the respective pharmaceutical societies of this State, duly incorporated according to law, to regulate the dispensing and compounding of drugs, and to examine and license apothecaries; and to direct the Legislature to make it a misdemeanor or such additional penalty as the Legislature may think fit, for any person hereafter to carry on the business of pharmacy without such license.

I leave to the Legislature all powers in relation to the compensation, sessions, system of examination, etc., of the board of examiners, also full control as to the fees and regulations of the pharmaceutical societies. Were these propositions adopted, I have no doubt our

action would meet with the approbation of the people of this State. No evil has been more complained of, but the people have so long suffered, that they consider the matter almost remediless. It is a subject in every manner appropriate for this Convention to take cognizance of. One that, with its proper disposition, will bring much popularity to our labors, and awaken the people to the fact that this Convention is in existence. What more has the question of a man's beverage-drinking to do with the Constitution than his care and aid while balancing between life and eternity; than the culture and protection of that profession which prolongs the life of the State by prolonging the lives of its inhabitants. Of what more importance the construction of a stone building in the city of Albany to-day or ten years hence; or whether railroads are to link together and without disturbance carry a trunk from New York to Buffalo, or merely to check it with delay from station to intermediate stations. I cannot conceive that the answer will be made, that this is not a subject for our consideration. The Constitution of 1846 provides the pre-requisites for admissions to practice law. Section 8 of article 6 says, "Any male citizen of twenty-one years of age, of good moral character, and who possesses the requisite qualifications of learning and ability, shall be entitled to admission to practice in all the courts of this State." Is the profession of medicine of any less importance than that of law; is the preservation of a man's life of less importance than that of his property? I myself think not! Learned gentlemen on this floor have spent a great deal of time in tracing the canals to their commencement, and in graphically describing their course to tidal waters. I ask this morning that these gentlemen turn their thoughts to the great tide of humanity; that they visit in mind the haunts of the charlatan, the luxurious apartments of the abortioner, and stand for a moment by the bed of sickness, and watch life slowly stealing away in the hands of malpractice and gross ignorance. After this, I ask these gentlemen whether they will still refuse to use their power and influence in mitigating this great and deadly evil. Many a hearthstone is to-day cheerless, many a domestic group that promised much happiness dissevered, and the State much weakened in body and brain through the terrible ravages of these auxiliaries of death. This subject is philosophical and humanitarian. Man is but a frail thing, living but for the grave, traveling on time in doubt and uncertainty, standing on the strand of that *vast ocean of eternity* he must sail very soon. Mortality should not

be hastened by his own hand, but left to the natural order of things ordained by Divine Providence. In the language of Gray :

"To Contemplation's sober eye
Such is the race of man :
And they that creep, and they that fly,
Shall end where they began.
Alike the busy and the gay
But flutter through life's little day,
In Fortune's varying colors drest ;
Brushed by the hand of rough Mischance.
Or chilled by Age, their airy dance
They leave in dust to rest."

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